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Collective Plaintiffs*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**ISAIAH GERAFINO, LENFORD
JOHNSTON, SARA FAUST, SUKOL
PHAIROJ, CHELSEA LINDMAN,
VIRGINIA WORLEY, ROSALINA
WALTER and THOMAS CAMPBELL on
behalf of themselves and all others similarly
situated,**

INDEX NO: 07-cv-06729 (RJS)

Plaintiffs,

v.

**JEAN-GEORGES ENTERPRISES, LLC;
JEAN-GEORGES MANAGEMENT LLC;
PERRY STREET PROJECT LLC;
TRIOMPHE RESTAURANT CORP. d/b/a
JEAN GEORGES RESTAURANT and
NOUGATINE; ORIGINE LLC d/b/a JEAN
GEORGES RESTAURANT; JEAN
GEORGES LLC; LEONARD STREET LLC
d/b/a/ 66 RESTAURANT; JEAN-GEORGES
VONGERICHTEN and JOHN DOES 1-10**

Defendants.

x

DECLARATION OF VICTOR MELENDEZ

I, Victor Melendez, under penalty of perjury, affirm as follows:

1. I was employed by Defendants as a runner at Jean-Georges restaurant (“Jean-Georges”) within the last three years.

2. Throughout my employment at Jean Georges, I was paid less than the federal minimum wage of \$5.15 per hour.

3. When I began working at Jean Georges, I was informed by managers and coworkers that the restaurant required tipped employees to pool their tips.

4. I was never asked whether I wanted to be in the tip-pool, and the terms of the tip pool were maintained and enforced by the restaurant’s management, not the servers or similarly tipped employees.

5. Throughout my employment at Jean Georges, Jean Georges required us to share our tips with managers, by allowing the managers to be part of the tip-pool.

6. Although Jean Georges’ managers participated in the tip-pool under the title “maitre d” and/or other titles, their job duties illustrate that they were in fact managers, and not employees who are traditionally tipped. To this effect, the employees referred to these people as managers, and the managers all had full access to the management office.

7. The managers that were illegally part of the Jean Georges tip-pool include but are not limited to, Estelle Lamont, Juan Carlos Ortiz, John (last name unknown), Anthony Rudolph, Andrew (last name unknown), and John Palus.

8. These managers’ primary job duties include: (a) supervising all activity on the floor, (b) disciplining employees, (c) dealing with customer complaints, (d) holding daily meetings with servers in preparation for each shift, (e) scheduling and/or vacation requests, (f) verifying the money reports at the end of each night, and (g) sending employees home early.

9. I was hired by Anthony Rudolph, who was in the Jean Georges tip-pool.

10. I was disciplined by Estelle Lamont and sent home for a night.

11. I several times witnessed employees disciplined and/or sent home by managers that were in the tip-pool.

12. Whenever I had scheduling issues, such as requests for time off, I made these requests to the managers on duty, who were in the tip-pool. The managers either granted or denied my requests.

13. On occasions that we were short-staffed, the managers would call employees and require them to come in and work. Similarly, when we were overstaffed, the managers would send employees home.

14. The managers usually conducted the pre-shift meeting before every shift that I worked at.

15. The managers on duty determined when every service employee such as myself went home early or was required to stay late.

16. The managers on duty typically wore suits, as opposed to server uniforms.

17. For every shift, the managers assigned each waiter, runner and busser to her section.

18. When for any given reason a charge was to be 'comped', *i.e.*, voided, the managers had authority and routinely authorized these voids for the servers.

19. When a customer asked to speak to a manager, they were referred to the managers on duty.

20. Most of the above-mentioned managers seldom, if ever, provided direct customer service, such as bringing food to customers, bussing etc.

21. Jean Georges employed hosts/hostesses who would greet and seat customers. This was not the managers' duty, and they seldom performed it.

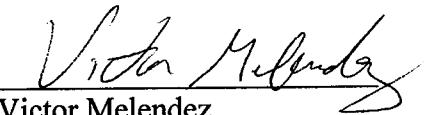
22. I have several times witnessed employees terminated by managers in the tip-pool, such as Anthony Rudolph, and Estelle Lamont.

23. I several times witnessed managers in the tip pool communicate to employees that the managers could terminate employees' employment.

24. The managers had special cards or access codes with which they could access the computer system to perform managerial functions such as changing the prices of items, comping items, voiding checks, reopening closed checks, reauthorizing checks, etc.

I affirm, under penalty of perjury, that the above and foregoing information is true and correct.

Dated: New York, New York
February 13, 2008



Victor Melendez